

Virginia Regulatory Town Hall Agency Background Document Proposed Regulation

Agency Name: Department of Social Services
VAC Number: 22 VAC 40-030-10 et seq.
Regulation Title: Food Stamp Program - Resource Exclusion
Action Title: Proposed Repeal of the Resource Exclusion Regulation
Date: June 7, 1999

Summary:

This regulation expanded the list of resources that are excluded from consideration in the Food Stamp Program by allowing each food stamp household an interest-bearing savings account up to \$5,000. The exclusion was allowed if households established the accounts for purposes of education or toward the purchase of a residence. The proposed action is to initiate the repeal of the resource exclusion. Virginia no longer has federal support to allow the expansion of the resource exclusion.

Basis:

§63.1-25 of the Code of Virginia (1950), as amended, places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the sections of the Code related to social services. House Bill 1502, passed by the 1993 General Assembly, amended §63.1-110 of the Code and required the Department of Social Services to seek waivers of federal regulations, if needed, to be able to implement the resource modification. The Department sought and received a waiver of regulations at 7 Code of Federal Regulations 273.8 from the U.S. Department of Agriculture. In December 1997, the waiver was subsequently withdrawn from Virginia because of a procedural change in allowing waivers only if there is cost neutrality. Exclusions for special accounts were terminated effective January 1, 1998. No future requests for a waiver of federal regulations are expected because there are no foreseeable changes to reduce or offset program costs.

Purpose:

This regulation allowed food stamp households an opportunity to save money that would be excluded in determining households' countable resources and program eligibility. The regulation sought to promote self-sufficiency by enabling Virginians to save money, without penalty, for education or to gain permanency in the community through the purchase of a house. Without the sanction of a federal waiver, the repeal of this regulation is needed to allow Virginia to operate the Food Stamp Program in line with federal regulations.

Substance:

The repeal of the regulation will allow the list of exempt resources for the Food Stamp Program to match existing federal regulations or allowances. Maintaining the regulation and operating the Food Stamp Program with the regulation after the expiration of the federal waiver exposes Virginia to potential case errors and federal fiscal sanction.

Issues:

Food stamp households may accumulate resources of up to \$2,000 and remain eligible for program benefits. The resource level for a household with an elderly member is \$3,000. Certain resources are not counted toward the maximum resource level. The regulation expanded the resource exclusions to encourage savings for the purposes of education or housing. The repeal of the regulation will result in the evaluation of all savings accounts, regardless of the reason the accounts were established.

The repeal of the regulation provides no advantages to the public but a small number of food stamp recipients would be adversely affected. The disadvantages to these recipient households would occur when the households' resources exceed the allowable limit and result in the denial or termination of eligibility. The repeal provides no disadvantages the agency. By repealing the regulation, the agency potentially will positively impact the case error rate by reducing the number of resource exclusions allowed and ultimately enhances the agency's ability to properly count all available, countable resources when determining entitlement to food stamp benefits.

Alternatives:

No alternatives were evaluated. The state law specifically calls for the exclusion from evaluation of a savings account and directs the Secretary of Health and Human Resources to seek a waiver of federal regulations, if necessary to implement the state law.

The regulation was needed to implement a state law. No alternatives regarding the resource exclusion were evaluated because the mandate was so specific that little room was available. Alternatives were evaluated to determine the penalties for withdrawing money from the account for reasons other than education or housing. The decision to consider such improper withdrawals as an available resource was made in conjunction with other social service benefit programs.

Repealing the regulation is the less intrusive alternative than pursuing efforts to continue to seek waivers from the federal policy. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the request for waivers of federal policy for the Food Stamp Program must be measured against overall program costs and must result in the costs being neutral. The request to extend the waiver of federal regulation was not approved. No future changes are expected to generate cost savings through Virginia-specific program initiatives such that additional waiver requests would be unlikely to be approved.

Public Comment:

The agency received no comments.

Clarity of the Regulation:

Staff of the Division of Temporary Assistance Programs and the Assistant Attorney General assigned to the department reviewed the regulation for clarity and understandability.

Periodic Review:

No additional review is needed. The regulation is being repealed.

Fiscal Impacts:

There are no fiscal impacts associated with repealing the resource exclusion regulation. The exclusion for the special accounts ended effective January 1998. There were costs involved with reprogramming the computer system to allow the system to continue excluding the accounts for the Temporary Assistance for Needy Families (TANF) and Medicaid Programs while counting the accounts for food stamps. These costs are outweighed by the potential costs of case errors that would be caused by eligibility determinations that allow benefits for household that have resources over the allowable levels. Food stamp benefits are provided by federal funds.

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